MEMORANDUM

To: Senate Financial Institutions and Insurance

From: Alan D. Conroy, Executive Director

Date: March 12, 2019

Subject: HB 2203; Working After Retirement

House Bill 2203, as amended by House Committee, changes working after retirement rules by adding the STARBASE program to the list of positions exempted from working after retirement rules and by delaying the start date of the retiree penalty for breaking their waiting period to July 1, 2019.

Employer Exemption

When a member retires from KPERS and begins receiving benefits, they cannot return to work for a KPERS affiliated employer for 180 days if they retired before age 62 or for 60 days if they were age 62 or older.

The Internal Revenue Service (IRS) requires a “bona fide” retirement in order for a person to begin received benefits from a pension plan. The statutory waiting period serves as the test for a bona fide retirement from KPERS.

After their waiting period, a KPERS retiree can return to work for KPERS affiliated employer as long as there was no prearranged agreement for the retiree to return. However, the KPERS retiree cannot be re-enrolled in KPERS as an active member. When a KPERS retiree returns to work for a KPERS affiliated employer, they continue receiving their KPERS benefit. They also have no earnings limitation and are not required to make any contributions to KPERS.

Statutory working after retirement rules require KPERS affiliated employers who hire KPERS retirees to make contributions on the payroll of KPERS retirees. Employers contribute the statutory employer contribution rate (13.21% in FY 2019 for State employers) on the first $25,000 of retiree salary and 30% for salary above $25,000. This contribution is intended to help offset the actuarial cost of a non-contributing retiree filling a position that could be filled by an active, contributing member.

There are several existing exemptions included in statute from the employer contribution rate applied when hiring a KPERS retiree. Some of the exemptions include:

- Daily call substitute teachers
- Poll workers
- Local elected officials
- Regents institutions.

KPERS

Retiree Penalty
When a retiree returns to work for a KPERS affiliated employer before the completion of the statutory waiting period they must repay any benefits they received while working and their benefit is suspended until they terminate employment and for an additional six months after they terminate employment.

This penalty was added to working after retirement rules by the 2016 Legislature and took effect in July 2016. This was the first time a penalty had been included in the working after retirement rules.

Each year, KPERS has about 4,000 KPERS retirees who return to work for a KPERS affiliated employer. KPERS is aware of fewer than 10 retirees, about 0.25% of all the retirees who returned to work, who have not met the new statutory requirements before returning to work and are subject to the new penalty.

The House Committee amended HB 2203 to delay the start date of the six month penalty for retirees who break their waiting period to July 1, 2019 and allow KPERS to restore benefits to members who were found to have broken their waiting period and stopped working when they were notified of the issue.

The six month penalty remains in HB 2203, as amended, but the bill delays the start date of the penalty.

Cost Impact
The changes in HB 2203 are not expected to have any impact on the actuarial funding of the System or any administrative requirements that cannot be accomplished within existing resources.

I would be pleased to answer any questions the Committee may have on HB 2203.